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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,636	03/24/2004	Brandon Crabtree	P314760	6089

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,636

Applicant(s)

CRABTREE, BRANDON

Examiner

Thomas J. Braham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 15-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 15-29 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in the telephone conversation of January 10, 2006. These claims should be cancelled or other appropriate action should be taken.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 7-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fow. Fow shows a hoisting assembly for supporting a transmission of a vehicle having a frame comprising first and second longitudinally extending vehicle frame members (13) each vehicle frame member comprising an upper surface, the hoisting assembly comprising:

a) a central frame (legs 10 and 11) having first and second lateral ends and a central area, the central frame supported substantially at the upper surface of the first and second vehicle frame members, the central frame comprising containment brackets (clamps 14 or the leg portions adjacent the slot 16 which extend downward at 90 degrees) positioned at the first and second lateral ends at substantially 90 degrees downwardly configured to operatively maintain the central frame on the upper surface of the first and second vehicle frame members (13);

b) a hoisting device (18-26) adapted to be mounted to the central area of the central frame (10, 11), the hoisting device comprising an attachment member (19) that is adapted to be mechanically attached to the differential of the vehicle;

c) whereas, the hoisting device is adapted to raise the attachment member vertically and the transmission attached thereto and support the transmission where the central frame is positioned substantially vertically above the transmission and the hoisting assembly is adapted to be mounted to the frame of the vehicle.

The load recited as lifted by the hoisting assembly, a differential, is not given any patentable weight, as the transmission hoist of Fow can also lift differentials. The central frame can be repositioned along the longitudinal direction of the vehicle frame, as recited in claim 2, while supported on the bracket portions of clamps (14), as recited in claims 13 and 14. As the hoist has a flaccid member (18) it inherently can lift loads which are not directly under the hoisting device (18-26), as recited in claims 3 and 4. The attachment member (19) can engage recesses, as recited in claim 7. As seen in figure 2, the brackets (16) of the central frame extend longitudinally therefrom, as recited in claims 8 10 and 12. The hoisting device has a cable (18), as recited in claim 9, and a crank (22), as recited in claim 11.

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4. Claims 1 and 3-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hardin. Hardin shows a hoisting assembly for supporting a transmission or differential (see column 1, lines 11 and 12) of a vehicle having a frame comprising first and second longitudinally extending vehicle frame members (22 and 23 with or without the I-beams mounted thereon) each vehicle frame member comprising an upper surface, the hoisting assembly comprising:

a) a central frame (fifth wheel plate 24 with or without the I-beams mounted below the plate; Hardin incorporates the fifth wheel frame 24 as part of the hoisting assembly) having first and second lateral ends and a central area, the central frame supported substantially at the upper surface of the first and second vehicle frame members, the central frame comprising containment brackets (U-bolts 25) positioned at the first and second lateral ends at substantially 90 degrees downwardly configured to operatively maintain the central frame on the upper surface of the first and second vehicle frame members (22 and 23);

b) a hoisting device (65) adapted to be mounted to the central area of the central frame (24), the hoisting device comprising an attachment member (94/95) that is adapted to be mechanically attached to the differential of the vehicle;

c) whereas, the hoisting device is adapted to raise the attachment member vertically and the differential attached thereto and support the differential where the central frame is positioned substantially vertically above the differential and the hoisting assembly is adapted to be mounted to the frame of the vehicle.

The hoisting device has a flaccid member (83) that inherently can lift loads which are not directly under the hoisting device, as recited in claims 3 and 4. The hoisting device (65) moves laterally with respect to the central frame (24), as tube (62) moves laterally, as recited in claims 5 and 6. The attachment member (94/95) engages recesses, as recited in claim 7.

5. Claims 1-7, 9, 10, and 12-14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Paul et al. Paul et al shows a hoisting assembly comprising:

a) a central frame (bracing plates 32 and 34) having first and second lateral ends and a central area, the central frame supported substantially at the upper surface of the first and second vehicle frame members (12 and 14), the central frame comprising containment brackets (lugs 38) positioned at the first and second lateral ends at substantially 90 degrees downwardly configured to operatively maintain the central frame on the upper surface of the first and second vehicle frame members (12 and 13);

b) a hoisting device (tubular section 30 and winch drum 50) adapted to be mounted to the central area of the central frame (32/34), the hoisting device comprising an attachment member (48/126) that is adapted to be mechanically attached to a load;

c) whereas, the hoisting device is adapted to raise the attachment member vertically and its load attached thereto and support the load with the central frame is positioned substantially vertically there

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above.

The load recited as being lifted by the hoisting assembly, a differential, is not given any patentable weight, as the hoisting device of Paul et al could be used to lift differentials. The central frame (32/34) can be repositioned along the longitudinal direction of the vehicle frame, as recited in claim 2, while supported on the lugs (38), as recited in claims 13 and 14. As the hoist has a flaccid member (48) it inherently can lift loads which are not directly under the hoisting device, as recited in claims 3 and 4. The hoisting device (30 and 50) can be repositioned laterally on the central frame (32/4) as recited in claims 5 and 6. The attachment member (126) engage recesses on the loads, as recited in claim 7. The hoisting device has a cable (48), as recited in claim 9, and a crank (112), as recited in claim 11.

6. Larsen et al shows a related hoist with containment brackets (15).


7. Applicant's remarks in the amendment filed May 24, 2006, have been fully considered, but as detailed above, the central frame of Fow can be considered as at the location at the upper surfaces of the vehicle frame members (13) even though the central frame (10,11) has a bowed portion extending upwardly therefrom. The Hardin reference also has the central frame substantially at the upper surface of frame, as either the I-beams mounted on frame members 22 or 23 can be considered as part of the vehicle frame as to have central frame (24) on the upper surfaces of the I-beams. Or, alternatively, the I-beams can be considered as part of the central frame (24) as to them supported on the upper surfaces of vehicle frame members (22 and 23). The new reference of Paul et al also shows a central frame (32/34) that is mounted on the top surface of the vehicle frame members and has containment brackets (38) at the ends. The amendment necessitated the new grounds, accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Thomas J. Brahan
Primary Examiner
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